

ESTTA Tracking number: **ESTTA342947**

Filing date: **04/19/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Agape Roofing and Construction, LLC		
Entity	LLC	Citizenship	Oklahoma
Address	3209 S. Yale Avenue Tulsa, OK 74114 UNITED STATES		

Attorney information	Soula Skokos Skokos Law Group, LLC 1100 Jorie Blvd Suite 220 Oak Brook, IL 60523 UNITED STATES sskokos@aol.com Phone:630-368-1699
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Applicant Information

Application No	77832917	Publication date	04/06/2010
Opposition Filing Date	04/19/2010	Opposition Period Ends	05/06/2010
Applicants	<p>Burgeson, Karl 11828 N. Tomahawk Rd. Parker, CO 80138 UNITED STATES</p> <p>Burgeson, Lynne 11828 N. Tomahawk Rd. Parker, CO 80138 UNITED STATES</p>		

Goods/Services Affected by Opposition

Class 037. First Use: 1991/11/07 First Use In Commerce: 1991/11/07

All goods and services in the class are opposed, namely: Building construction and repair, namely, comprehensive preventative maintenance service for roofing systems; roofing consultation; roofing contracting; roofing installation; roofing repair; and roofing services

Grounds for Opposition

Other	Mark is not currently used or advertised for services outside of one state, Colorado
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Attachments	opposition to reg.pdf (1 page)(11872 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/skokos/
Name	Soula Skokos
Date	04/19/2010

Objection to Registration of Serial Number 77832917

The following objection to serial number 77832917 is made pursuant to Section 901 of the TMEP. According to the application, the applied for mark's first date of use in commerce was November 7, 1991. Pursuant to Section 901, "the applicant must use the mark in commerce on or in connection with all the goods and services listed in the application as of the application filing date." Further, pursuant to Section 902, use in commerce for service marks is defined as "when it is used or displayed in the sale or advertising of services and the services are rendered in commerce, or the services are rendered in *more than one State* or in the United States and a foreign country and the person rendering the services is engaged in commerce in connection with the services."

According to the applicant's web page available at <http://agaperoofing.com/wordpress/>, however, the applicant makes the following statement:

"Agape Construction & Roofing TM is the wood shake specialist in the Denver Metro/Front Range for two decades.

Their Colorado-based, family-owned, and operated company has become well known in the industry for the quality of their work, and is a preferred roofing contractor for most major insurance companies. "

The applicant's web site further states on a web page available at <http://agaperoofing.com/wordpress/roof-certifications>:

"Buyers and Homeowners Beware of unscrupulous contractors that are out to make a quick buck and won't be there for you in the long run. We have a 20 year track record in the Denver Metro area, providing sellers and buyers with quality workmanship. We stand behind our service 100%."

The applicant's website clearly establishes the use of the applicant's mark in the Denver Metro area only and distinguishes its services from other service providers who operate outside of the Denver area. Accordingly, the applicant's statements on its website clearly conflict with its statements on the application published for opposition concerning its "use in commerce" and indicate that the applicant's mark is not advertised or used outside of the Denver Metro area nor is the applicant offering services outside the Denver Metro area.

For the above reasons, it is requested that the application with serial number 77832917 be denied registration.